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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No.

2010-28

12 **TIMOTHY MARK ALSIP**  
13 15379 Oak Creek Road, #20  
14 El Cajon, CA 92021-2443

**A C C U S A T I O N**

15 Registered Nurse License No. 564250

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Heidi J. Goodman ("Complainant") brings this Accusation solely in her official  
20 capacity as the Assistant Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about February 25, 2000, the Board issued Registered Nurse License Number  
23 564250 to Timothy Mark Alsip ("Respondent"). Respondent's registered nurse license was in  
24 full force and effect at all times relevant to the charges brought herein and will expire on October  
25 31, 2009, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761, subdivision (a), states that the Board may take disciplinary action  
8 against a certified or licensed nurse or deny an application for a certificate or license for  
9 unprofessional conduct, which includes, but is not limited to, the following:

10 (a) Incompetence, or gross negligence, in carrying out usual certified or licensed nursing  
11 functions

12 . . . .

13 6. Code section 2762 states, in pertinent part:

14 In addition to other acts constituting unprofessional conduct within the  
15 meaning of this chapter [the Nursing Practice Act], it is unprofessional  
16 conduct for a person licensed under this chapter to do any of the following:

17 (a) Obtain or possess in violation of law, or prescribe, or except as  
18 directed by a licensed physician and surgeon, dentist, or podiatrist administer  
19 to himself or herself, or furnish or administer to another, any controlled  
20 substance as defined in Division 10 (commencing with Section 11000) of the  
21 Health and Safety Code or any dangerous drug or dangerous device as defined  
22 in Section 4022.

23 . . . .

24 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible  
25 entries in any hospital, patient, or other record pertaining to the substances  
26 described in subdivision (a) of this section.

27 7. Code section 4060 states, in pertinent part:

28 No person shall possess any controlled substance, except that furnished  
to a person upon the prescription of a physician, dentist, podiatrist,  
optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,  
or furnished pursuant to a drug order issued by a certified nurse-midwife  
pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a  
physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant  
to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of  
paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of,  
subdivision (a) of Section 4052.

1           This section shall not apply to the possession of any controlled  
2 substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician,  
3 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
4 nurse-midwife, nurse practitioner, or physician assistant, when in stock in  
containers correctly labeled with the name and address of the supplier or  
producer . . .

5           8. Health and Safety ("Health and Saf.") Code section 11170 states that no person shall  
6 prescribe, administer, or furnish a controlled substance for himself.

7           9. Health and Saf. Code section 11173, subdivision (a), states, in pertinent part, that  
8 "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
9 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
10 misrepresentation, or subterfuge . . ."

#### 11                           **COST RECOVERY**

12           10. Code section 125.3 provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16                           **CONTROLLED SUBSTANCES AT ISSUE**

17           11. **Dilaudid**, a brand of Hydromorphone, is a Schedule II controlled substance as  
18 designated by Health and Saf. Code section 11055, subdivision (b)(1)(K).

#### 19                           **FIRST CAUSE FOR DISCIPLINE**

##### 20                           **(Diversion and Possession of a Controlled Substance)**

21           12. Respondent is subject to disciplinary action pursuant to Code section 2761,  
22 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
23 subdivision (a), in that on or about and between July 24, 2007, and August 18, 2007, while on  
24 duty as a registered nurse in the Intensive Care Unit ("ICU") at Alvarado Hospital ("AH"), San  
25 Diego, California, he committed the following acts which were discovered following an  
26 investigation that he tampered with multiple vials of Dilaudid 1 mg by breaking the seals,  
27 removing the medication, and replacing it with a saline solution:

28       ///

1           **Diversion of a Controlled Substance:**

2           a.     Respondent obtained the controlled substance Dilaudid by fraud, deceit,  
3     misrepresentation, or subterfuge, in violation of Health and Saf. Code section 11173, subdivision  
4     (a), as follows: On or about and between July 24, 2007, and August 18, 2007, Respondent  
5     removed varying quantities of Dilaudid from the Pyxis (a computerized medication system) under  
6     the names of multiple patients, who did not have a physicians order for the medication, by  
7     entering an override into the system. Further, Respondent attempted to conceal his diversion of  
8     the medication by entering "canceled removed" in the Pyxis, as more particularly set forth in  
9     paragraph 14, below. Although Respondent had canceled the transactions in the Pyxis, he still  
10    had access to the medication requested.

11           **Possession of a Controlled Substance:**

12           b.     On or about and between July 24, 2007, and August 18, 2007, Respondent possessed  
13     approximately 66 mg of the controlled substance Dilaudid without a valid prescription from a  
14     physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, in violation of  
15     Code section 4060.

16                           **SECOND CAUSE FOR DISCIPLINE**

17                                   **(Gross Negligence)**

18           13.    Respondent is subject to disciplinary action pursuant to Code section 2761(a) in that  
19     he was grossly negligent when that he tampered with multiple vials of Dilaudid 1 mg by breaking  
20     the seals, removing the medication, and replacing it with a saline solution, as described in  
21     paragraph 12, above, which posed a risk of harm to all patients who needed the actual Dilaudid  
22     and not Saline.

23                           **THIRD CAUSE FOR DISCIPLINE**

24                                   **(False Entries in Hospital/Patient Records)**

25           14.    Respondent is subject to disciplinary action pursuant to Code section 2761,  
26     subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
27     subdivision (e), in that on or about and between July 24, 2007, and August 18, 2007, while on  
28     duty as a registered nurse in the ICU at AH, San Diego, California, Respondent falsified, or made

grossly incorrect, grossly inconsistent, or unintelligible entries in hospital, patient, or other records pertaining to the controlled substance Dilaudid, as follows:

a. On July 24, 2007, at 1843 and 1849 hours; August 6, 2007, at 2113, 2117, 2259, and 2304 hours; and August 17, 2007, at 1835 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient A's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" each time in the Pyxis computer record for patient A.

b. On July 24, 2007, at 2006 and 2010 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient B's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled remove" each time in the Pyxis computer record for patient B.

c. On July 24, 2007, at 2014 hours, Respondent withdrew Dilaudid 1 mg from the Pyxis under patient C's name, without a physician's order for the medication, by entering and override. Respondent then entered "canceled removed" in the Pyxis computer record for patient C.

d. On July 25, 2007, at 2101 hours, Respondent withdrew Dilaudid 1 mg from the Pyxis under patient D's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" in the Pyxis computer record for patient D.

e. On July 27, 2007, at 1837 hours; July 28, 2007, at 0028, 0331, 0336, 0545, and 0549 hours; and July 29, 2007, at 0042 and 0048 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient E's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" each time in the Pyxis computer record for patient E.

f. On July 28, 2007, at 0244 hours, Respondent withdrew Dilaudid 1 mg from the Pyxis under patient F's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" in the Pyxis computer record for patient F.

h. On August 3, 2007, at 2103, 2104, and 2113 hours, Respondnet withdrew Dilaudid , 1 mg., each time from the Pyxix under Patient H's name, without a physician's order for the ///  
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1 medication, by entering an override. Respondent then entered "canceled removed" each time in  
2 the Pyxis computer record for patient H.

3 i. On August 4, 2007, at 1919, 1924, 2013, and 2021 hours, and August 5, 2007, at  
4 0129 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient I's  
5 name, without a physician's order for the medication, by entering an override. Respondent then  
6 entered "canceled removed" each time in the Pyxis computer record for patient I.

7 j. On August 5, 2007, at 0124 hours, Respondent withdrew Dilaudid 1 mg from the  
8 Pyxis under patient J's name, without a physician's order for the medication, by entering an  
9 override. Respondent then entered "canceled removed" each time in the Pyxis computer record  
10 for patient J.

11 k. On August 11, 2007, at 1854, 1859, 2134, and 2139 hours, and August 12, 2007, at  
12 0015, 0021, 0424, and 0431 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis  
13 under patient K's name, without a physician's order for the medication, by entering an override.  
14 Respondent then entered "canceled removed" each time in the Pyxis computer record for patient  
15 K.

16 l. On August 12, 2007, at 2222, 2227, 2332, and 2338 hours and on August 13, 2007, at  
17 0046 and 0056 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under  
18 patient L's name, without a physician's order for the medication, by entering an override.  
19 Respondent then entered "canceled removed" each time in the Pyxis computer record for patient  
20 L.

21 m. On August 13, 2007, at 0243 and 0248 hours, Respondent withdrew Dilaudid 1 mg  
22 each time from the Pyxis under patient M's name, without a physician's order for the medication,  
23 by entering an override. Respondent then entered "canceled removed" each time in the Pyxis  
24 computer record for patient M.

25 n. On August 13, 2007, at 0535 and 0544 hours, hours, Respondent withdrew Dilaudid 1  
26 mg each time from the Pyxis under patient N's name, without a physician's order for the  
27 medication, by entering an override. Respondent then entered "canceled removed" each time in  
28 the Pyxis record for patient N.

o. On August 13, 2007, at 0241 hours, Respondent withdrew Dilaudid 1 mg from the Pyxis under patient O's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" in the Pyxis computer record for patient O.

p. On August 13, 2007, at 1924, 1930, and 2125 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient P's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" each time in the Pyxis computer record for patient P.

q. On August 13, 2007, at 2132 hours; August 14, 2007, at 0247 hours; August 17, 2007, at 1840, 2143, and 2147 hours; and August 18, 2007, at 0413 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient Q's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" each time in the Pyxis computer record for patient Q.

r. On August 14, 2007, at 1914 hours, Respondent withdrew Dilaudid 1 mg from the Pyxis under patient R's name, without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" each time in the Pyxis computer record for patient R.

s. On August 18, 2007, at 1831 and 1833 hours, Respondent withdrew Dilaudid 1 mg each time from the Pyxis under patient S's, name without a physician's order for the medication, by entering an override. Respondent then entered "canceled removed" each time in the Pyxis computer record for patient S.

## PRAAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 564250, issued to Timothy Mark Alsip;

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1           2.     Ordering Timothy Mark Alsip to pay the Board of Registered Nursing the reasonable  
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
3 Code section 125.3; and

4           3.     Taking such other and further action as deemed necessary and proper.

5  
6 DATED:

7/22/09

Heidi J. Goodman

HEIDI J. GOODMAN,  
Assistant Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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